



Court File No. **VLC-S-S-253451**  
NO.  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:



PLAINTIFF

AND:

HONDA MOTOR COMPANY, LTD.,  
HONDA CANADA INC., and  
HONDA DEVELOPMENT & MANUFACTURING OF AMERICA, LLC

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c.50

**NOTICE OF CIVIL CLAIM**

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

**TIME FOR RESPONSE TO CIVIL CLAIM**

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF(S)

**Part 1: STATEMENT OF FACTS**

**A. Nature of Claim**

1. The within proposed automotive defect multi-jurisdictional class proceeding involves certain model and model year Honda-branded vehicles painted with a factory-applied white exterior paint, defined below as **"Affected Class Vehicles"**, engineered, designed, developed, manufactured, assembled, tested, marketed, distributed, supplied, leased and/or sold by the Defendants, HONDA MOTOR COMPANY, LTD. (**"HMC"**), HONDA CANADA INC. (**"HCI"**) and HONDA DEVELOPMENT & MANUFACTURING OF AMERICA, LLC, (**"HDMA"**), in Canada, including the Province of British Columbia. In particular, the Affected Class Vehicles all suffer from a common paint defect that causes the Affected Class Vehicles' factory-applied white exterior paint to prematurely and inevitably fail, peel, delaminate, degrade, bubble, and/or flake (the **"Paint Defect"**).
2. "Affected Class Vehicles" include, but are not limited to, the following Honda-branded vehicles ranging from model year 2013 to the present painted with a factory-applied white exterior paint, in particular, having the corresponding paint and paint code referenced below, and whose limited and/or extended warranty coverage as to repairs of the Paint Defect having expired:

DEFENDANT MANUFACTURER	MODEL	PAINT & PAINT CODE
HDMA	Acura MDX	White Diamond Pearl (NH-603P)
HDMA	Honda Odyssey	White Diamond Pearl (NH-603P) or Tafetta White (NH-578)

DEFENDANT MANUFACTURER	MODEL	PAINT & PAINT CODE
HDMA	Honda Pilot	White Diamond Pearl (NH-603P) or Tafetta White (NH-578)
HMC	Honda Fit	White Orchard Pearl or Bellanova White (NH-788P)
HMC	Honda HR-V	White Orchard Pearl or Bellanova White (NH-788P)

The Plaintiff reserves the right to amend the definition of Affected Class Vehicles to include other Honda-branded vehicles with the Paint Defect.

3. The Paint Defect existed in latent form when the Defendants, HMC, HCl and/or HDMA, manufactured the Affected Class Vehicles and when the Plaintiff and putative class members purchased and/or leased the Affected Class Vehicles; however, the Paint Defect has manifested, and will invariably manifest itself, during the reasonably expected life of the Affected Class Vehicles causing premature or early paint failure, peeling, delamination, degradation, bubbling, and/or flaking.
4. The Paint Defect arises from a latent defect in the white paint itself; a defect in the factory application process used to apply the primer layers and/or the white paint to the exterior body of the Affected Class Vehicles; and/or a defect in the Defendants', HCl's, HMC's and/or HDMA's, factory automated painting/coating-line system.
5. As detailed below, at all relevant times (late 2012 to the present based on the time the Defendants, HMC, HCl and/or HDMA, began selling and/or leasing the Affected Class Vehicles), the Defendants, HMC, HCl and/or HDMA, have been fully aware of the importance consumers place on the exterior appearance of vehicles. Further, at all relevant times, the Defendants, HMC, HCl and/or HDMA, have also been aware of the Paint Defect based on, *inter alia*, internal testing, substantially similar paint defect problems with other Honda-branded vehicles, countless consumer complaints, and at least one other substantially similar class proceeding involving an exterior paint defect of Honda-branded vehicles.
6. The Defendants, HMC, HCl and/or HDMA, have exclusive knowledge of, and have been in exclusive possession of, facts and/or information pertaining to the Paint Defect, which were material to the Plaintiff and putative class members, who could not have reasonably known of the Paint Defect. Under the circumstances, the Defendants, HMC, HCl and/or

HDMA, had an affirmative duty to disclose the latent Paint Defect at the point of sale and/or lease of the Affected Class Vehicles to putative class members and consumers.

7. Despite that knowledge and duty, the Defendants, HMC, HCI and/or HDMA, have repeatedly failed to disclose and actively concealed the Paint Defect from putative class members and consumers, and continued to market and represent the Affected Class Vehicles as stylish, luxurious, high-quality, high-value and value-retaining vehicles which, as a result of the Paint Defect, they are not.
8. In 2019, faced with an avalanche of consumer complaints about the Paint Defect the Defendants, HMC, HCI and/or HDMA, finally acknowledged the Paint Defect and implemented various Technical Service Bulletins ("TSBs") extending the new vehicle limited warranty arbitrarily, and without providing a set criteria, only to a subset of, but not all, Affected Class Vehicles to cover repairs of the Paint Defect. The Defendants, HMC, HCI and/or HDMA, subsequently updated the TSBs to minimize the subset of the Affected Class Vehicles entitled to the extended warranties by arbitrarily and/or deceptively restricting or altering the nature of the warranty claim.
9. As detailed below, the Defendants', HCI's, HMC's and/or HDMA's, extended warranties failed to provide an adequate remedy or fix to putative class members because the extended warranties: (i) were provided without adequate notice to owners and/or lessees of the Affected Class Vehicles whose latent Paint Defect had manifested; (ii) were limited by way of updated TSBs to reduce the size of the subset of the Affected Class Vehicles entitled to the extended warranties by restricting or altering the nature of the warranty claims and the entitlements thereof; (iii) provided no relief to owners and/or lessees of Affected Class Vehicles whose vehicles were arbitrarily and without reason excluded from the subset entitled to the extended warranties; (iv) provided no relief to owners and/or lessees of Affected Class Vehicles whose Paint Defect had not yet visibly manifested; (v) were arbitrarily and improperly honored; and (vi) the paint repairs provided were inadequate, did not remediate or fix the Paint Defect, and did not restore the Affected Class Vehicles to their bargained-for value. Moreover, with the current expiration of its inadequate warranty remedies, the Defendants, HMC, HCI and/or HDMA, have refused, and continue to refuse, to provide paint repairs or any other meaningful remedy or fix to putative class members who have suffered loss, expense or damage as a result of the Paint Defect.



10. Vehicle manufacturers paint vehicles for two essential purposes: (i) to enhance aesthetics (i.e., color, gloss, and appearance); and (ii) to provide necessary functionality (i.e., chemical and corrosion-resistance to protect the body of the vehicle). If any of these two purposes is compromised, then the value of the vehicle is greatly diminished and an integral component of the vehicle will likely fail, causing further damage in the form of rust and/or corrosion.
11. The condition of the paint on the body of a vehicle is widely recognized in the automotive industry as a factor affecting the value of and a potential consumer's appeal to the vehicle. This is because the appearance (color, gloss, and texture) of the surface of the vehicle significantly affects a consumer's perception of product quality. Additionally, consumer expectations for the aesthetic and functional attributes given to the exterior of vehicles by paint coatings continue to increase as vehicle manufacturers compete to provide surfaces that offer enhanced surface characteristics.
12. The Paint Defect has the effect of altering the visual and aesthetic appeal, and functionality of the paint coating, of the Affected Class Vehicles, thus it decreases the value of the Affected Class Vehicles, forcing owners and/or lessees of the Affected Class Vehicles to either live with the peeling and degradation problems caused by the Paint Defect or spend significant money to have the Affected Class Vehicles repainted and/or repaired. Even then, repainting an impacted exterior body panel of the vehicle does not cure or remedy the Paint Defect as the remaining parts of the Affected Class Vehicles still suffer from the Paint Defect in its latent form that will invariably manifest. Moreover, repainting the Affected Class Vehicles results in a cosmetic defect that permanently decreases the value of the Affected Class Vehicles.
13. As a direct and proximate result of the Defendants', HMC's, HCL's and/or HDMA's, deceit regarding, and failure to disclose, the Paint Defect, the Plaintiff and putative class members: (i) overpaid for the Affected Class Vehicles, either through a higher purchase price and/or lease payments; (ii) overpaid for the Affected Class Vehicles as the Paint Defect significantly diminishes the value of the Affected Class Vehicles; (iii) have Affected Class Vehicles that suffer from premature unsightly and aesthetically displeasing paint failures that have the added effect of compromising the effectiveness and functionality of the paint coatings; (iv) have Affected Class Vehicles that have significantly reduced re-sale value; and (v) must expend significant money to have their Affected Class Vehicles

repainted and/or repaired.

14. The Plaintiff and putative class members have purchased and/or leased Affected Class Vehicles that they would not have otherwise purchased and/or leased, or would have paid less for, had they known of the Paint Defect at the point of sale and/or lease. The Plaintiff and putative class members have consequently suffered ascertainable losses and actual damages as a result of the Defendants', HMC's, HCI's and/or HDMA's, unlawful conduct.
15. In engineering, designing, developing, manufacturing, assembling, testing, marketing, distributing, supplying, leasing and/or selling the Affected Class Vehicles, the Defendants, HMC, HCI and/or HDMA, have engaged in unfair, deceptive, and/or misleading consumer practices, and further have breached their express warranties.
16. No reasonable consumer would have purchased and/or leased an Affected Class Vehicle had the Defendants, HCI, HMC and/or HDMA, made full and complete disclosure of the Paint Defect, or would have paid a lesser price.
17. The Plaintiff and putative class members expected that the Defendants, HMC, HCI and/or HMA, would disclose, and not actively conceal, material facts about the existence of any defect that will result in expensive and non-ordinary repairs. The Defendants, HMC, HCI and/or HDMA, failed to do so.
18. The Plaintiff seeks relief for all other current and/or former owners and/or lessees of the Affected Class Vehicles with the Paint Defect, including, *inter alia*, recovery of damages, repair under provincial consumer protection legislation, breach of express warranty, and/or reimbursement of all expenses associated with the repairs of the Paint Defect in the Affected Class Vehicles.

**B. The Parties**

**i. Representative Plaintiff**

19. The Plaintiff, [REDACTED] has an address c/o 210-4603 Kingsway, Burnaby, British Columbia, V5H 4M4, Canada.
20. In or about late 2015, or early 2016, the Plaintiff purchased a new 2015 Honda Pilot Sport ("Honda Pilot"), an Affected Class Vehicle, in White Diamond Pearl factory-applied paint from Vancouver Honda, a Dilawri Group of Companies, an authorized Honda dealer of the

Defendants, HCM and/or HCI, located at 850 Southwest Marine Drive, Vancouver, British Columbia Canada for approximately \$50,000. The Honda Pilot came with a New Vehicle Limited Warranty which provided coverage for four years or 80,000 kilometers, which ever came first.

21. Prior to purchasing the Honda Pilot, the Plaintiff and her spouse viewed marketing materials that touted the quality, durability, and value of Honda's vehicles, including the Honda Pilot, and the sales representative and/or other personnel at Vancouver Honda emphasized the quality, durability, and aesthetic features of the Honda Pilot.
22. The Plaintiff relied on the information regarding the quality, durability, and value of the Honda Pilot conveyed in those marketing materials, as well as by the sales representative and/or other personnel, in deciding to purchase her Honda Pilot. At the time of purchase, the only Honda Pilot Sport available at Vancouver Honda was in a White Diamond Pearl color, which was a material factor in her decision to purchase her Honda Pilot.
23. The Defendants, HCM, HCI and/or HDMA, failed to disclose the Paint Defect to consumers, including the Plaintiff and other members of the putative class, and the Plaintiff, therefore, purchased her Honda Pilot on the reasonable, but mistaken, belief that it would be a quality and durable vehicle that would retain its value. The Plaintiff would not have purchased the Honda Pilot, or would not have paid as much for it, had she known of the Paint Defect and the propensity of the paint to prematurely bubble, peel, delaminate, degrade, and/or flake off the Honda Pilot during the reasonably expected life of the vehicle.
24. In or about 2023, the Plaintiff noticed that her Honda Pilot's paint was failing, bubbling, peeling, delaminating, degrading, and/or flaking between the sunroof and the front windshield, one of the most common areas for the Paint Defect to arise on the Affected Class Vehicles, as acknowledged by the Defendants, HCM, HCI and/or HDMA, in their 2019 TSB.
25. The Defendants, HCM, HCI and/or HDMA, failed to provide the Plaintiff with adequate, or any, notice of the extended warranty program so as to avail herself of the opportunity to remedy or fix the Paint Defect in her Honda Pilot under the extended warranty.
26. The Plaintiff maintained her Honda Pilot, and the paint issue between her sunroof and front window cannot be the result of any other factor except the Paint Defect.

27. The Plaintiff has suffered a concrete and ascertainable loss as a direct and proximate result of the Defendants', HMC's, HCI's and/or HDMA's, misconduct in that Plaintiff overpaid for her Honda Pilot at the time of purchase, the value of her Honda Pilot has been diminished as a result of the latent Paint Defect, and she will have to pay out-of-pocket to repair a latent Paint Defect that the Defendants, HMC, HCI and/or HDMA, were well aware of at the time of sale.

**ii. The Defendants**

28. The Defendant, HMC, is a company duly incorporated pursuant to the laws of Japan and has an address for service at 1-1, 2-Chome, Minami-Aoyama, Tokyo, 107-8556 Japan.
29. The Defendant, HCI, is a company duly incorporated pursuant to the laws of Canada, registered within British Columbia under number A0055194, and has an attorney, LML & S Services Inc., at 1500 Royal Centre, P.O. Box 11117, 1055 West Georgia Street, Vancouver, British Columbia, V6E 4N7, Canada.
30. The Defendant, HDMA, is a company duly incorporated pursuant to the laws of the State of Ohio, one of the United States of America, and has a registered agent, Corporation Service Company, at 1160 Dublin Road, Suite 400, Columbus, Ohio, 43215, United States of America. Up until April 1, 2021 the Defendant, HDMA, operated under the business name of "Honda of America Mfg., Inc".
31. The Defendant, HMC, is a global conglomerate manufacturer of automobiles, motorcycles and battery-powered equipment.
32. At all material times to the cause of action herein, the Defendant, HMC, engineers, designs, develops, manufactures, assembles, markets, advertises, distributes, supplies, leases and/or sells the Affected Class Vehicles, as averred to in paragraph two herein, through its related subsidiaries, affiliates, agents, operating and/or organizational units, including the Defendants, HCI and HDMA, independent retail dealers and authorized dealerships in North America, including the Province of British Columbia.
33. At all material times to the cause of action herein, the Defendant, HCI, was, and is, a wholly owned North American subsidiary of the Defendant, HMC, and engineers, designs, develops, manufactures, assembles, markets, advertises, distributes, supplies, leases and/or sells Honda-branded vehicles, including certain Affected Class Vehicles, as

averred to in paragraph two herein, with the Paint Defect for distribution and/or sale in Canada, including the Province of British Columbia.

34. At all material times to the cause of action herein, the Defendant, HDMA, was, and is, a wholly owned North American subsidiary of the Defendant, HMC, and engineers, designs, develops, manufactures, assembles, markets, advertises, distributes, supplies, leases and/or sells Honda-branded vehicles, including certain Affected Class Vehicles, as averred to in paragraph two herein, with the Paint Defect for distribution and/or sale in the United States of America and Canada, including the Province of British Columbia.
35. At all material times to the cause of action herein, the Defendant, HMC, exercises direct and/or indirect control and ownership over the Defendants, HCI and HDMA, including, *inter alia*, management policies, information governance policies, pricing, repair and/or warranty terms.
36. At all material times to the cause of action herein, the Defendants, HCI, HMC and HDMA, shared the common purpose of, *inter alia*, engineering, designing, developing, manufacturing, assembling, marketing, distributing, supplying, leasing and/or selling the Affected Class Vehicles with the Paint Defect, averred to herein, in Canada. Further, the business and interests of the Defendants, HCI, HMC and/or HDMA, are inextricably interwoven with that of the other as to the Paint Defect in the Affected Class Vehicles, as averred to in paragraph two herein, such that each is the agent or alter ego of the other.
37. Hereinafter, the Defendants, HMC, HCI and HDMA, are collectively, and/or interchangeably, referred to as the “**Defendant, Honda**” or “**Defendants**”, unless otherwise referred to individually.

**C. The Class**

38. This action is brought on behalf of members of a class consisting of the Plaintiff, all British Columbia residents, and all other persons resident in Canada, who own, owned, lease and/or leased one or more of the Affected Class Vehicles (“**Class**” or “**Class Members**”), excluding employees, officers, directors, agents of the Defendants and their family members, class counsel, presiding judges and any person who has commenced an individual proceeding against or delivered a release to the Defendants concerning the subject of this proceeding, or such other class definition or class period as the Court may

ultimately decide on the application for certification.

**D. Factual Allegations**

**i. The Defendant's, Honda's, vehicle paint process and the Paint Defect**

39. The Affected Class Vehicles all suffer from the Paint Defect that causes the factory-applied exterior white paint to prematurely and inevitably fail, bubble, peel, delaminate, degrade, and/or flake during the reasonably expected life of the Affected Class Vehicles.
40. The Paint Defect in the Affected Class Vehicles arises from: (i) a latent defect in the Affected Class Vehicles' white paint itself; (ii) a defect in the factory application process used to apply the primer layers and/or the white paint to the exterior body of the Affected Class Vehicles; and/or (iii) a defect in the Defendant's, Honda's, factory automated painting/coating-line system.
41. The Paint Defect is found in the Affected Class Vehicles in every province, regardless of geographical or other environmental factors (such as proximity to cities and pollution exposure).
42. During the relevant time, the Affected Class Vehicles were primarily manufactured in the Defendant's, Honda's, Lincoln, Alabama, United States of America, automobile plant using an automated painting/coating-line system.
43. The Defendant's, Honda's, painting process involves, *inter alia*, the following critical steps:
  - (a) Each vehicle body is cleaned and degreased and then undercoated by immersion in a zinc-phosphate bath.
  - (b) The vehicle body is then dipped in a soluble, electro-deposited primer (e-coat).
  - (c) To prevent dust and moisture from accumulating in critical areas, special sealants are sprayed into crevices and seams in the vehicle body.
  - (d) Areas of the vehicle body that are susceptible to stone and gravel damage are coated with a special anti-chipping primer.
  - (e) An intermediate primer coat (primer) is applied, followed by either a polyester-resin or acrylic-resin topcoat, which includes a base coat and clear coat, and, if a metallic

or pearlescent paint color is involved, a mid-coat.

- (f) Metallic and pearlescent paints receive an additional clear coat.
44. In most vehicles, there are only two primary paint layers, starting with the colored “base coat” at the bottom, and then topped with a “clear coat.” With a three-stage paint, however, there is an additional “mid coat” pearl or metallic paint layer between the base coat and the clear coat.
  45. The white paint applied to the exterior of the Affected Class Vehicles, namely the White Diamond Pearl (NH-603P), Tafetta White (NH-578), or White Orchard Pearl or Bellanova White (NH-788P) are “three-stage” or “tri-coat” paints.
  46. Three-stage paints add a sparkling finish to a vehicle's overall paintwork, giving the surface a sense of depth or richness that two layers alone would not be able to accomplish. Due to aesthetic benefits, vehicles painted with three-stage paints are more appealing and expensive to consumers, as is the case with the Affected Class Vehicles. However, three-stage paints, such as the white paint applied to the exterior body of the Affected Class Vehicles, are far more likely to prematurely fail, peel, delaminate, degrade, bubble, and/or flake, if not applied properly or if there are systemic issues in the paint/coating-line system employed by a vehicle manufacturer.
  47. Key factors contributing to the premature or early failing, peeling, delaminating, degrading, bubbling and/or flaking of three-stage paints include, *inter alia*, the following:
    - (a) Inconsistent Application: The application process requires meticulous precision. Any variation in the application, or insufficient curing, of any of the layers of the topcoat (base, mid or clear coat), can lead to adhesion problems; and
    - (b) Complexity: The additional layers in three-stage paints increase application difficulty making minor defects more likely. Minor defects during production can result in long-term durability issues.
  48. The three-stage white paint applied on the Affected Class Vehicles are prone to peeling, delaminating, degradation and other issues due to a latent defect in the “three-stage” exterior white paint itself, a defect in the factory application process, and/or a defect in the Defendant's, Honda's, factory automated painting/coating-line system.

49. In addition, primer is an essential element in the quality of the adhesion between the e-coat and the basecoat. Primers must be tested for their ability to withstand chemical reactivity to ultraviolet ("UV") light and extreme weather conditions because disintegration of any agents within the primer will likely cause a drastic loss of adhesion and delamination of the topcoat. The durability of the paint, and the prevention of corrosion, is dependent upon the adhesion of all the layers of a vehicle's paint coating, including the e-coat, primer, and the topcoat layers.
50. Intercoat adhesion of all the layers of a vehicle's paint coating—including the Affected Class Vehicles' e-coat, primer, topcoat (base coat, mid coat, and clear coat) layers—is a critical determinant of the quality of the paint on any surface or item (including the ability to withstand UV light), not just vehicles. Achieving excellent performance and application properties of any paint requires a holistic approach to ensure compatibility, not only within a paint formulation across all ingredients, but also between the paint formulation and the painting/coating-line system used for the application of the paint, so that all paint layers can properly work together and bring out those properties. An inadequate layer or poor adhesion between layers (i.e. poor intercoat adhesion) is the weakest link of a paint system and greatly increases the probability of a vehicle's paint coating failure, such as the inevitable and premature failing, peeling, delaminating, degrading, bubbling, and/or flaking of the white exterior paint of the Affected Class Vehicles.
51. Given the purpose of automotive coatings and the value added by a quality paint job, vehicle manufacturers spend millions of dollars conducting a myriad of long-term and short-term tests to ensure automotive paint provides excellent aesthetics and performance properties.
52. Degradation of the primer layers in a vehicle's paint coating—as in the Affected Class Vehicles, in addition to issues related to the white paint's three-stage painting process—can be caused by the defective nature of the materials and paint layers used, or the improper manner in which they are applied during the painting process, resulting in accelerated degradation at the interface between the base, mid, and/or clear coat. This degradation causes a loss of adhesion and will manifest as peeling, delaminating or degradation, which eventually leads to corrosion damage to the vehicle's exterior body, as manifested in the Affected Class Vehicles.



**ii. The Paint Defect Is widespread in the Affected Class Vehicles and the Defendant, Honda, acknowledged the Paint Defect by implementing inadequate extended warranty programs**

53. As demonstrated by a multitude of complaints and reports made by owners and/or lessees of the Affected Class Vehicles, the Paint Defect is ubiquitous, and manifestation of the Paint Defect is inevitable.
54. Class Member reports relating to the Paint Defect bear striking similarities to one another, including, *inter alia*, the following:
- (a) premature paint failure, such as peeling, delaminating, degradation, bubbling, and/or flaking during the reasonably expected life of Affected Class Vehicles;
  - (b) the Defendant's, Honda's, auto paint technicians, and auto body repair shops being well-aware of the Affected Class Vehicles' Paint Defect;
  - (c) the inadequacy and arbitrary administration of the Defendant's, Honda's, warranties and extended warranties directed toward the Paint Defect;
  - (d) the Defendant's, Honda's, or its agents', arbitrary and improper refusal to repair the Paint Defect; and
  - (e) high estimates and high costs to repair the Paint Defect, inadequate repairs, and risk of further paint failure (stemming, for instance, from the repainting of only one exterior body panel as opposed to the whole car).
55. In 2019, the Defendant, Honda, could no longer feign ignorance and acknowledged the widespread Paint Defect, issuing various TSBs for some of the impacted models, model years and paint colors, providing an inadequate extended warranty to repair and/or compensate owners and/or lessees of Affected Class Vehicles.
56. For instance, TSB 19-029, "Warranty Extension: White Diamond Pearl Paint," issued by the Defendant, Honda, on June 1, 2019, states in part the following:

This warranty extension only applies to 2014-16 MDX vehicles that are painted NH-603 White Diamond Pearl. The exterior paint on the roof and/or tailgate may peel off. American Honda is extending the

warranty on the paint of the affected vehicles to 8 years from the original date of purchase with no mileage limit.

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This warranty extension only applies to the panels listed in the WARRANTY CLAIM INFORMATION section if they exhibit a paint peeling problem. All paint repairs MUST have DPSM approval before starting work.

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### **CORRECTIVE ACTION**

**Inspect the vehicle and, if necessary, have a ProFirst Certified Body Shop repaint the entire affected panel(s) with a tri-coat color, mid (mica), and clear coat paint after obtaining DPSM approval.**

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#### **3. Inspect the roof and tailgate areas for damage**

- If the paint on the vehicle appears similar to the images below, go to REPAIR PROCEDURE

**MDX:**



57. TSB 19-055, "Warranty Extension: Taffeta White Paint," issued by the Defendant, Honda, on August 29, 2019, which applied to 2013 Honda Odysseys and 2014-2015 Honda Pilots, provided an extended warranty for seven years from the original date of purchase with no mileage limit, and stated regarding the covered Honda Odysseys and Pilots that "[t]he exterior paint on the roof and/or tailgate may peel off."

58. TSB 19-064, "Warranty Extension: NH-788 White Orchid Pearl or Bellanova White Paint" issued by the Defendant, Honda, on August 29, 2019, which applied to 2015-2017 Honda Fits and 2016-2018 Honda HR-Vs, provided an extended warranty for seven years from the original date of purchase with no mileage limit, and stated that "[t]he exterior paint on the vehicle may peel off."
59. As addressed below, the extended warranties provided by the Defendant, Honda, through its TSBs, as well as its standard and extended warranties, were unconscionable and misleading.

**iii. The Defendant's, Honda's, prior knowledge of the Patent Defect**

60. The Defendant, Honda, knew, or ought to have known, about the Paint Defect before it sold and/or leased the Affected Class Vehicles to Class Members, based, *inter alia*, on: (i) internal paint testing; (ii) prior TSBs from the Defendant, Honda, involving substantially similar paint defect issues; (iii) consumer reports of the Paint Defect; and (iv) a prior class proceeding directly addressing a substantially similar paint issue as the Paint Defect. Despite its knowledge, the Defendant, Honda, did not disclose the Paint Defect to, and actively concealed the Paint Defect from, the Class Members.

**a. Internal Testing**

61. Prior to a new paint and/or paint coating being used on a vehicle (such as the epoxy clear coat system used by the Defendant, Honda), vehicle manufacturers, such as the Defendant, Honda, are known to employ multiple standards and test protocols to ensure long life and film integrity of the paint coating as well as the underlying substrate or layer. In addition to extensive exterior and accelerated weathering evaluation of clearcoats, there is additional aggressive testing prior to the qualification of an automotive coating system to ensure the paint coating will provide long lasting protection when exposed to environmental elements. These tests often run over the course of two-to-five years before a vehicle using the paint coating is brought to market.
62. Most of these test procedures are developed and standardized by the American Society for Testing and Materials ("**ASTM**") and the Society of Automotive Engineers ("**SAE**"), and typically include, *inter alia*, the following:
- (a) accelerated weathering tests to assess paint color, gloss retention, and

appearance in general, such as Xenon Arc (subjecting test panels to intense radiation); ASTM D4587 – Standard Practice for Florescent UV - Condensation, Exposure of Paint, and Related Coatings, also known as “QUV”, (subjecting test panels to high ultra-violet light and condensing humidity cycles); ASTM D4141 – Standard Practice for Conducting Black Box and Solar Concentrating Exposures of Coatings, also known as “EMMAQUA”, (placing test panels on racks that rotate with the sun to provide maximum UV light exposure); and humidity tests (subjecting test panels to 100% relative humidity at 100°F for several weeks);

- (b) long-term outdoor weathering tests, where test panels are placed on so called “test fences” at 45-degrees facing south (according to ASTM1 standards) in various environments, such as in the State of Florida (high UV light, humidity, and salt spray), the State of Arizona (intense UV light and temperature), and industrial sites (high pollutants such as acid rain and various chemicals);
  - (c) corrosion resistance tests, including salt spray (subjecting test panels to 5% salt spray solution at 95°F for several weeks), cyclic corrosion (subjecting test panels to various cycles of salt spray, humidity, wet/dry, temperature), condensing humidity (subjecting test panels to temperature cycling in highly saturated air, Copper Accelerated Acetic Acid Salt Spray test (subjecting test panels to salt spray with added acetic acid for accelerated testing), and Kesternich testing (subjecting test panels to acid rain simulation); and
  - (d) physical and mechanical tests, including flexibility, impact resistance abrasion resistance, scratch and mar resistance, coating thickness, adhesion, and hot and cold cycling; and chemical properties testing, including resistance to solvents, chemicals and various fluids the vehicle will likely encounter in the open environment.
63. Furthermore, the Defendant, Honda, is member of the Automotive Industry Action Group (“AIAG”), which has a common Production Part Approval Process (“PPAP”). According to prevailing automotive industry standards during the relevant time, it was, and is, standard practice to undertake a PPAP when making changes to an existing automotive design, including a change in paint and the process of applying the paint to a vehicle.
64. The AIAG has developed a common PPAP standard for suppliers of automotive paint.

PPAP is a standardized required process in the automotive industry that helps manufacturers and suppliers communicate and approve production designs and processes before, during, and after manufacture.

65. The PPAP is designed to demonstrate that a supplier has developed its design and production process to meet the manufacturer's requirements, minimizing the risk of failure by effective use of advanced planning. Requests for approval must be supported in official PPAP format and with documented results when needed.
66. The purpose of any PPAP is to: (i) ensure that a supplier can meet the manufacturability and quality requirements of the parts supplied to the manufacturer; (ii) provide evidence that the manufacturer engineering design record and specifications are clearly understood and fulfilled by the supplier; and (iii) demonstrate that the established manufacturing process has the potential to produce the part that consistently meets all requirements during the actual production run at the quoted production.
67. Typically, there are numerous PPAP requirements, including material performance, which includes paint performance. Accordingly, the Defendant, Honda, would have required its suppliers to test the paint, and its application, to see how it performed in simulated real-world conditions to determine the quality and durability of the paint, whether the paint adhered to the surface of the vehicle, whether it corroded or delaminated, how it performed when subjected to heat, cold, light, moisture, and rain, whether the color or gloss faded, changed, or was retained, among other performance metrics.
68. As such, either as part of the PPAP, or independent of it, the Defendant, Honda, performed several of the above-described ASTM and SAE test procedures. In fact, the Defendant, Honda, has developed what is referred to as "Honda SAE Standards & Testing" that are used in connection with the testing of its vehicles, including D2023-07 Rev.4 "Heat-Resistant Coating," HES D6501-06 "General Test Methods for Coatings," HES D2021-04 "Corrosion Proof Coating (on metals)," and 5100Z-S04-0000 "Painting Quality of Automobile Suspension Arc Welded Parts," as well as various other tests relating to the performance of the paint used on its vehicles, including the Affected Class Vehicles, in simulated real-world conditions.
69. The development of the paint and the paint manufacturing process, including the testing performed in connection therewith, would have revealed the Paint Defect to the

Defendant, Honda. However, the details regarding the testing performed by the Defendant, Honda, and the results of that testing are in the exclusive custody and control of the Defendant, Honda.

70. Moreover, prior to distribution and/or sale of the Affected Class Vehicles, the Defendant, Honda, would have conducted factory audits and quality control checks that would have identified irregularities in paint thickness, adherence, which would have made the Defendant, Honda, aware of a substantially heightened risk of future paint peeling, delamination and/or degradation.

**b. TSBs 19-029, 19-055, and 19-064 and substantially similar prior TSBs**

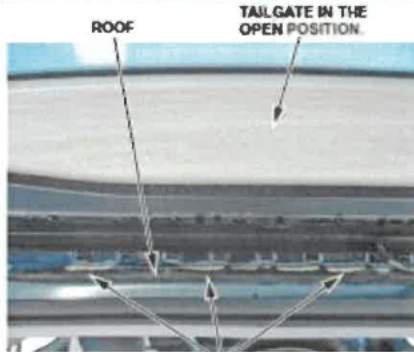
71. The Defendant's, Honda's, pre-sale knowledge of the Paint Defect is evidenced by TSBs 19-029, 19-055, and 19-064 addressing the Paint Defect impacting the Affected Class Vehicles. The detailed repair procedure contained in those TSBs—which involves removing the paint and the e-coat if damaged and reapplying the paint—highlights the Defendant's, Honda's, familiarity with the Paint Defect, its cause, and solution.
72. The Defendant's, Honda's, familiarity with the Paint Defect and the proper repair procedure arises from its extensive pre-sale experience with substantially similar paint defects and resulting TSBs in other Honda-branded vehicles.
73. Most notably, in May 2008 the Defendant, Honda, issued TSB 08-031, "Warranty Extension: Paint Peeling on Dark Blue 2003-3005 Odysseys," where the Defendant, Honda, described a substantially similar paint peeling issue and stated: "[o]n potentially affected vehicles, the exterior paint may peel off the horizontal (flat) surfaces and in recessed areas around the glass or the sliding doors[,] including the "[roof], under the top edge of the tailgate, under the top edge of the sliding glass doors, and the top of the panel of the sliding doors."
74. In TSB 08-031, the Defendant, Honda, provided the following pictures of the relevant damage and described a similar repair procedure as set forth in TSB 19-029 (removal of the paint and/or e-coat and repainting):

# INSPECTION PROCEDURE

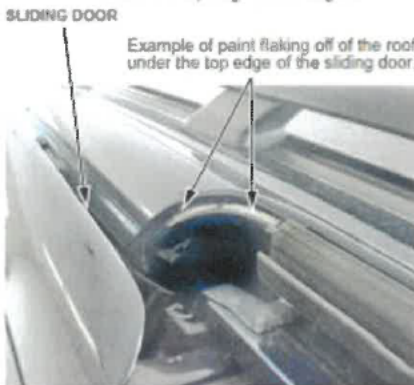
Inspect the following areas for paint problems (peeling, flaking or, in some cases on the hood and the roof, coming off in sheets):

- Roof (including under the top edge of the tailgate, under the top edge of the sliding doors, and the top panel of the sliding doors)

Example of paint peeling off in sheets from the roof.



Example of paint flaking off the roof, under the top edge of the tailgate.



Example of paint flaking off of the roof, under the top edge of the sliding door.

## # DU Hood

Example of paint peeling off the hood.



- Top half of the quarter panels

Example of paint flaking off the upper half of the left quarter glass.



- Top half of the fenders

Example of paint peeling off the top of the left fender.



If you find paint peeling or flaking in any of the above areas, go to REPAIR PROCEDURE.

75. The Honda Odyssey model years covered by TBS 08-031, like the Affected Class Vehicles, were painted in the Defendant's, Honda's, Lincoln, Alabama automobile plant, using a substantially similar defective type of paint, paint application process and/or automated painting/coating-line system, and suffered a substantially similar paint defect as the Affected Class Vehicles. As a result, the Defendant, Honda, knew, or ought to have known, the nature and causes of the Paint Defect from its experiences relating to TSB 08-



031 prior to selling the Affected Class Vehicles. The Defendant, Honda, attempted to ameliorate the paint peeling issue necessitating TSB 08-031 but knew, or ought to have known, prior to vehicle sales to the Plaintiff and Class Members that it did not fully remedy or fix the Paint Defect in the Affected Class Vehicles and that it still subsisted.

76. Likewise, between August 2012 and September 2014, the beginning of the relevant time, the Defendant, Honda, issued TSBs 12-049, 13-060, and 14-034 addressing "Honda Civic Hood Paint Cracking" and "Civic Roof and Trunk Paint Chalking and Clouding" in 2006-2013 Honda Civics.
77. TSBs 12-049, 13-060, and 14-034 involved the following pearl and metallic paint colors, which were applied by the Defendant, Honda, during manufacturing using a similar manner to that employed in the manufacturing of the Affected Class Vehicles:
  - B-92P – Nighthawk Black Pearl;
  - B-529P – Fiji Blue Pearl;
  - B-536P – Royal Blue Pearl;
  - B-537M – Atomic Blue Metallic;
  - B-561P – Dyno Blue Pearl;
  - NH-701M – Galaxy Gray Metallic;
  - NH-731P – Crystal Black Pearl;
  - NH-737M – Polished Metal Metallic;
  - YR-578M – Urban Titanium Metallic; and
  - B-586P – Dyno Blue Pearl II (2012 model only).
78. Based on the Defendant's, Honda's, experiences with substantially similar issues with three-stage paints and paint layer adhesion in the 2003-2005 Honda Odysseys and the 2006-2013 Honda Civics, the Defendant, Honda, would have been well-aware of the paint defects and/or defective paint processes that lead to poor paint adhesion much like the Paint Defect plaguing the Affected Class Vehicles. Nevertheless, the Defendant, Honda, used similarly defective paints and/or similar processes to manufacture the Affecting Class



Vehicles, resulting in the Paint Defect.

**c. Customer complaints as to the Paint Defect**

79. The Defendant, Honda, also knew, or ought to have known, about the Paint Defect as numerous consumer complaints regarding the Paint Defect were made directly to the Defendant, Honda, or on online sources monitored by the Defendant, Honda. The large number of complaints, and the consistency of their descriptions of the Paint Defect alerted, or ought to have alerted, the Defendant, Honda, of the Paint Defect. Many of these consumer complaints occurred at the beginning of the relevant time.
80. As such, the Defendant, Honda, was aware of the Paint Defect prior to the relevant time based on prior internal testing and prior TSBs. Early reports of the Paint Defect, and substantially similar paint issues in other Honda-branded vehicles, confirmed to the Defendant, Honda, what it already knew about the Patent Defect.

**d. Québec class proceeding involving a substantially similar paint defect in Honda-branded vehicles**

81. The Defendant, Honda, also knew, or ought to have known, about the Paint Defect because of consumer complaints of substantially similar paint issues impacting Honda-branded vehicles, which were the subject of a class proceeding against the Defendant, Honda, in the Superior Court of the Province of Québec on May 4, 2018, under the style of proceeding: *Stéphanie Daunais v. Honda Canada Inc.*, No. 500-06-000927-182.
82. The Québec class proceeding was brought on behalf of all persons who purchased and/or leased certain model year Honda Civic or Acura CSX vehicles whose paint experienced peeling and/or delamination. Among other things, the Québec class proceeding alleged a “phenomenon” of paint peeling affecting Honda-branded vehicles throughout North America.
83. Despite its various sources of pre-sale knowledge of the Paint Defect, the Defendant, Honda, marketed the Affected Class Vehicles to the public at a premium based on purported durability, high value, and ability to retain value even though the Defendant, Honda, knew that the Paint Defect would severely impact those attributes for the Affected Class Vehicles.

84. Moreover, despite its pre-sale knowledge of the Paint Defect the Defendant, Honda, never disclosed the latent Paint Defect to Class Members prior to or during their purchases and/or leases of the Affected Class Vehicles.

**iv. The Defendant's, Honda's, representations regarding the value, value-retention, aesthetic, durability and/or paint attributes of the Affected Class Vehicles**

85. The Acura MDX is a mid-sized luxury crossover sport utility vehicle (SUV) that was first introduced to the North American market in October 2000. The Honda Odyssey is a minivan that was introduced in 1994. The Honda Pilot is a mid-size crossover SUV with three-row seating manufactured by the Defendant, Honda, since 2002. The Honda Fit is a subcompact hatchback vehicle manufactured and marketed by the Defendant, Honda, since 2001 over four generations. The Honda HR-V is a subcompact crossover SUV manufactured and marketed by the Defendant, Honda, over three generations.
86. Throughout the years, and at all relevant times, the Defendant, Honda, consistently and widely marketed the Affected Class Vehicles as high-value, value-retaining, stylish, luxurious, and durable vehicles. The Defendant's, Honda's, marketing of the Affected Class Vehicles has enabled it to charge consumers premium prices for the Affected Class Vehicles.
87. The Defendant, Honda, directly markets the Affected Class Vehicles to consumers via extensive nationwide, multimedia advertising campaigns on television, the internet, billboards, print publications, mailings, and through other mass media.
88. For example, in the 2014 Acura MDX brochure, the Defendant, Honda, touted the Acura MDX as "a luxury experience for mankind":

**INTRODUCING THE EXTREMELY NEW 2014 MDX**

The SUV that set standards for an entire industry has raised them once again.

Reinvention isn't something we discover. It's something we create. The ability to push ego aside and begin again, through the abandonment of what was familiar and maybe even good enough. That was the inspiration behind our own recreation of the MDX. Its entire soul reimaged. Because if your quest is to build the world's smartest luxury SUV for mankind, you have to hold yourself to the

standards of mankind. This is the extremely new 2014 Acura MDX. More than an SUV, it's a luxury experience made for mankind.

89. Likewise, in the 2014 Acura MDX press kit, the Defendant, Honda, made the following representations:

"The 2014 MDX is the third generation of Acura's seven-passenger luxury performance SUV, the first to be developed from the ground up using an all-new, purpose-built platform (body and chassis) fully optimized for the needs of today's luxury SUV buyers."

"The 2014 MDX design, created in the Acura Design Studio in Torrance, California, was developed under the theme of 'Aero Sculpture.' With its alluring proportions, smooth, arching bodylines and confident stance, the 2014 MDX communicates a look of sophistication and elegance while delivering new levels of aerodynamic efficiency."

90. The Defendant, Honda, made substantially similar representations regarding value, the ability to retain value, style, luxury, and durability in product brochures and other marketing for all Affected Class Vehicles.

91. For example, the Defendant, Honda, marketed the Affected Class Vehicles for their excellent value in relation to their cost, as well as their ability to retain that value. The Defendant, Honda, repeatedly touted the Acura MDX as a winner of the U.S. News & World Report Best Cars for the Money Award, including in 2014:

"Acura's hottest sellers, MDX luxury sport utility vehicle and RDX luxury crossover SUV, have won U.S. News & World Report's 2014 awards with MDX taking the 'Best Luxury 3-Row Midsize SUV For The Money' award and RDX winning the 'Best Luxury Compact SUV For The Money' category."

"The MDX and RDX continue to win accolades for their outstanding combination of exhilarating performance, great fuel efficiency, and outstanding value on a luxury scale," said Jeff Conrad, vice president and general manager of Acura Sales. "With the five-passenger RDX and new seven-passenger MDX, Acura has unquestionably two of the most competitive luxury SUVs in the market."

92. Similarly, in a June 2013 press release, the Defendant, Honda, stated that the "Honda Odyssey led the minivan segment for maintaining the highest projected residual value after five years of ownership as a percentage of value when new," an attribute the Defendant, Honda, emphasized applied for all Affected Class Vehicles:

"Honda models definitely punch above their weight when it comes to value with class-leading quality, safety ratings, standard features and a company commitment to avoid value-sapping fleet sales: said Mike Accavitti, senior vice president of automobile operations for American Honda.

93. The Defendant, Honda, advertised the Affected Class Vehicles' exterior paint as a central and integral attribute of the Affected Class Vehicles, an attribute that was necessary to complement the Affected Class Vehicles' value, ability to retain value, style, luxury, and durability.
94. For instance, in the 2014 Acura MDX press kit, the Defendant, Honda, made the following representations regarding the durability and resilience of the Acura MDX's paint and suggested that the Affected Class Vehicles' paint was essential to "compliment" the Acura MDX's luxury design, including the White Diamond Pearl paint:

The 2014 MDX is available in seven exterior colors, including three metallic and four pearl colors. All colors are expressive and luxurious in appearance, complimenting the MDX's sophisticated and dynamic body shape. The acid-resistant epoxy clear-coat paint is superior to typical clear-coat paints for increased resistance to urban pollutants:

- Silver Moon Metallic
- Crystal Black Pearl
- Dark Cherry Pearl
- Forest Mist Metallic
- Graphite Luster Metallic
- Fathom Blue Pearl
- White Diamond Pearl

95. The Defendant, Honda, made substantially similar representations regarding the Affected Class Vehicles' paint in marketing materials for Affected Class Vehicles. For instance, the 2014 Honda Odyssey brochure encouraged consumers to find the "perfect" combination between exterior and interior colors, including White Diamond Pearl. An August 2011 press release for the Honda Pilot marketed a "sleek new look" and included the available paint colors, including Taffeta White and White Diamond Pearl. The 2015 Honda Fit brochure emphasized the model's "complete redesign," encouraged consumers to "choose the right fit," and highlighted the various available paint colors, including White Orchid Pearl. Likewise, the 2016 Honda HR-V brochure stated, before listing available paint colors (including White Orchid Pearl for all trim levels): "[f]unctionality versatility and efficiency are all important in a vehicle-and the HR-V is definitely all those things. But let's

not kid ourselves: looks matter too. Fortunately, the HR-V overdelivers in that department. By a mile.”

96. The Affected Class Vehicle models are some of the highest-selling vehicles in the North American automobile market during the relevant time because of the Defendant's, Honda's, marketing of the Affected Class Vehicles as high-value, value-retaining, stylish, luxurious, and durable vehicles.
97. As a result of the Defendant's, Honda's, marketing, the Plaintiff and Class Members formed a reasonable belief and expectation that the paint used on the Affected Class Vehicles was of high quality, would endure, and would not adversely impact the long-term value of the Affected Class Vehicles. Furthermore, the Plaintiff and Class Members paid a premium to purchase their Honda vehicles in white paint, as vehicles painted white are generally more expensive when compared with vehicles in other colors, especially if the paint offerings contain metallic or pearlescent attributes.
98. Likewise, based on the marketed durability and longevity of the Affected Class Vehicles, the Plaintiff and Class Members formed a reasonable belief and expectation that the Affected Class Vehicles paint would last a time commensurate with the useful life and longevity of the Affected Class Vehicles, that is, a time frame well-exceeding over ten years. Statistics from Automotive Industries Association of Canada (AIA) as of 2020, which tracks vehicle registration data nationwide, indicates that the average Canadian currently keeps his or her vehicle for a record 9.7 years.
99. Class Members confirm that the Affected Class Vehicles are durable, and a substantial portion of Affected Class Vehicles remain on the road more than ten years after the Defendant, Honda, sold and/or leased them. As such, the Plaintiff and Class Members reasonably expected that the Affected Class Vehicles' paint would remain intact for that same duration.
100. Moreover, consumers like the Plaintiff and the Class Members reasonably expected that the Affected Class Vehicles' paint would not fail, peel, delaminate, degrade, flake, or bubble under normal conditions during the reasonably expected life of the Affected Class Vehicles and/or cause other problems that would adversely impact the value of the Affected Class Vehicles.

101. The Plaintiff and Class Members were exposed to and relied on the Defendant's, Honda's, pervasive, long-term, national, multimedia marketing campaign touting the supposed value, style, luxury, and durability of the Affected Class Vehicles, including the quality and durability of the exterior paint (and the exterior paint's ability to complement the aesthetics and style of the Affected Class Vehicles). The Plaintiff and Class Members justifiably made their decisions to purchase and/or lease the Affected Class Vehicles based on the Defendant's, Honda's, misleading marketing.
102. However, as discussed above, rather than producing Affected Class Vehicles with durable, high-quality paint complementing the Affected Class Vehicles' "sophisticated and dynamic body shape" that lasted the Affected Class Vehicles' reasonably expected useful life, the Defendant, Honda, knowingly manufactured and sold the Affected Class Vehicles with the Paint Defect that causes premature paint failure, peeling, delaminating, degradation, bubbling and/or flaking during the reasonably expected life of the Affected Class Vehicles, thereby greatly reducing their value and consumer desirability, and resulting in costly repairs.
103. Consumers contemplating the purchase and/or lease of an Affected Class Vehicle developed a reasonable and material expectation regarding the quality and longevity of the paint used on the Affected Class Vehicles based on the Defendant's, Honda's, nationwide public advertisements, statements, and representations regarding the high-value and durability of its vehicles and paints, including the Defendant's, Honda's, representations regarding the "epoxy clear-coat paint" discussed above.
104. Contrary to these reasonable and material expectations, and the Defendant's, Honda's, advertisements, statements, and representations, however, the paint coating on the Affected Class Vehicles has failed due to the Paint Defect—a clear loss of adhesion between the Affected Class Vehicles' base coat, mid coat, and/or clear coat; and the primer layer and the topcoat.

**v. The Affected Class Vehicles' warranties are unconscionable and/or misleading**

105. The Defendant, Honda, sold the Honda-branded subset of the Affected Class Vehicles with a "New Vehicle Limited Warranty" ("NVLW") that provided coverage for three years or 60,000 kilometers ("km"), whichever came first. The Defendant, Honda, sold Acura-

branded subset of the Affected Class Vehicles with an NVLW that provided coverage for four years or 80,000 km, whichever comes first.

106. The Affected Class Vehicles' NVLW provides in substantially similar fashion:

Honda will repair or replace any part that is defective in material or workmanship under normal use. See Proper Operation on page 35. All repairs/replacements made under this warranty are free of charge. The replaced or repaired parts are covered only until this New Vehicle Limited Warranty expires.

107. The Affected Class Vehicles' NVLW also provides:

Honda may cover, on a case-by-case basis, some or all of the cost to repair a problem that is not covered by your vehicle's limited warranties.

108. TSBs 19-029, 19-055, and 19-064 provided extended warranty coverage for certain Affected Class Vehicles impacted by the Paint Defect, including 2014-2016 Acura MDXs in White Diamond Pearl (NH-603P); 2013 Honda Odysseys and 2013-2015 Honda Pilots in White Diamond Pearl and Taffeta White (NH-578); and 2015-2018 Honda Fits and 2016-2018 Honda HR-Vs in White Orchid Pearl or Bellanova White (two colors which have the same paint code NH-788P). The Defendant, Honda, extended the warranty covering the Paint Defect for seven years from the original date of purchase for Honda-branded Affected Class Vehicles and eight years from the date of original purchase for Acura-branded Affected Class Vehicles.

109. The Defendant's, Honda's, warranties and TSB extended warranties were unconscionable and/or misleading for, *inter alia*, the following reasons:

- (a) The Defendant, Honda, leveraged its vastly unequal bargaining power to knowingly sell Affected Class Vehicles with the Paint Defect, which caused the Affected Class Vehicles' paint to fail, bubble, peel, delaminate, degrade and/or flake. Despite its vastly superior position and its exclusive knowledge, the Defendant, Honda, failed to inform the Plaintiff and Class Members of the Paint Defect and misrepresented the reliability, quality, performance, and aesthetic and/or paint attributes of the Affected Class Vehicles. Instead of informing the Plaintiff and the Class Members of the Paint Defect that made the Affected Class Vehicles prematurely and inevitably susceptible to paint failure, bubbling, peeling,

delaminating, degradation, and/or flaking, the Defendant, Honda, attempted to limit its warranty and other remedies. The limited remedies the Defendant, Honda, offered unreasonably favor the Defendant, Honda, given its superior and exclusive knowledge regarding the Paint Defect, and contravene the reasonable expectations of the Plaintiff and Class Members concerning the reliability of the aesthetic and/or paint attributes of the Affected Class Vehicles;

- (b) The Defendant, Honda, knowingly limited the NVLW warranties by duration to avoid addressing the vast bulk of the Paint Defect claims. Although the Paint Defect existed in its latent form during the NVLW's period, the Defendant, Honda, knew, or ought to have known, that in the majority of instances, the Paint Defect would not manifest until after the expiration of the NVLW warranty period;
- (c) The Defendant's, Honda's, warranties include misrepresentations and improper exclusions covering the Paint Defect, including the certified pre-owned vehicle warranty which states "[certified pre-owned] vehicle[s] were] inspected before delivery and, at that time, met the standards required of [Honda/Acura] Certified Pre-Owned Vehicles" even though the Defendant, Honda, knew that all certified pre-owned Affected Class Vehicles included the Paint Defect in its latent form;
- (d) The TSB extended warranties were improperly and knowingly limited by duration and in the nature of the available remedy to certain model years of the Affected Class Vehicles and certain white paint colors to avoid the bulk of claims. Although the Paint Defect existed in its latent form during the extended warranty period, the Defendant, Honda, knew, or ought to have known, that in the vast majority of instances the Paint Defect would have manifested until after the TSB extended warranty period would have expired, and would manifest in certain Affected Class Vehicles that were not covered by the Defendant's, Honda's, TSB extended warranties;
- (e) Repairs, even when provided pursuant to warranties, did not adequately address, remedy or fix the Paint Defect;
- (f) The Defendant, Honda, failed to provide adequate notice of the extended warranty to Class Members despite stating it would provide such notice, depriving Class Members—including the Plaintiff who were never notified of the TBS extended



warranties—with a reasonable opportunity to avail themselves of the warranty; and

- (g) Many Class Members have had their claims rejected improperly and arbitrarily by the Defendant, Honda, under the TSB extended warranties, even where the Affected Class Vehicles qualified for coverage under the plain terms of the TSB extended warranties.
110. As evidenced by the repair instructions in the TSB, repainting the Affected Class Vehicles, even if done properly, does not adequately remedy or fix the Paint Defect and does not remedy the diminution of value that occurs because of the repainting.
  111. For all the Affected Class Vehicles, the factory paint was applied by robots to exacting tolerances consistently over all vehicle body panels—a point highlighted by the Defendant, Honda, when marketing the Affected Class Vehicles to customers—whereas the TSB repair process is haphazard at best and results in paint inconsistencies relative to appearance and longevity.
  112. Indeed, the repainting of an Affected Class Vehicle—that has been exposed to environmental elements during its use—using the TSB repair process could never achieve the same finish that is produced during the original painting of the Affected Class Vehicles given the equipment and methods used by the Defendant, Honda, in the paint system that is applied to the pristine body of an Affected Class Vehicle, not to mention the pristine and strictly controlled environment in which the paint system is applied. As such, it is the limited scope of the TSB's repair procedures, the environment in which the Affected Class Vehicles are repaired, and the limitations of body shops, including those who are certified by the Defendant, Honda, that all but assures that the quality of repainting can never be as good as the original factory paint job. The Defendant, Honda, knew that the TSB repair procedures were inadequate at the time they were first implemented, especially considering the environmental and technical limitations of the body shops it authorized to perform such repairs yet concealed that fact from Class Members.
  113. Even if the Affected Class Vehicles were properly repainted, their values would still be diminished, as repainted newer vehicles are worth less than vehicles with original factory-applied paint. Indeed, there is a stigma associated with a repainted vehicle, especially for a luxury brand like Acura, and the fact that a vehicle has been repainted is often used by a potential buyer as a bargaining chip to lower the price.

114. In addition, anticipated vehicle purchasers often shy away from a vehicle that has been repainted, as it rings alarm bells that the vehicle may have been damaged in an accident and repainted as a result. A non-original paint job could also be an indication of major body repairs to the Affected Class Vehicle that are being hidden, not to mention rust.

**vi. Agency relationship between the Defendant, Honda, and its authorized dealerships as to the Affected Class Vehicles**

115. Honda-authorized dealerships are sales agents of the Defendant, Honda, as the vehicle distributor, supplier and/or manufacturer. The dealerships have accepted that undertaking. The Defendant, Honda, has the ability to control authorized Honda dealers, and act as the principal in that relationship, as is shown, *inter alia*, by the following:

- (a) the Defendant, Honda, can terminate the relationship with its dealers at will;
- (b) the relationships are indefinite;
- (c) the Defendant, Honda, is in the business of selling vehicles as are its dealers;
- (d) the Defendant, Honda, provides tools and resources for Honda dealers to sell vehicles;
- (e) the Defendant, Honda, supervises its dealers regularly;
- (f) without the Defendant, Honda, the relevant Honda dealers would not exist;
- (g) the Defendant, Honda, requires the following of its dealers:
  - (i) reporting of sales;
  - (ii) computer network connection with the Defendant, Honda;
  - (iii) training of dealers' sales and technical personnel;
  - (iv) use of the Defendant's, Honda's, computer software system;
  - (v) participation in the Defendant's, Honda's, training programs;
  - (vi) establishment and maintenance of service departments in Honda dealerships;

- (vii) certify Honda pre-owned vehicles;
  - (viii) reporting to the Defendant, Honda, with respect to the vehicle delivery, including reporting customer names, addresses, preferred titles, primary and business phone numbers, e-mail addresses, vehicle VIN numbers, delivery date, type of sale, lease/finance terms, factory incentive coding, if applicable, vehicles' odometer readings, extended service contract sale designations, if any, and names of delivering dealership employees; and
  - (ix) displaying the Defendant's, Honda's, logos on signs, literature, products, and brochures within Honda dealerships.
- (h) dealerships bind the Defendant, Honda, with respect to:
- (i) warranty repairs on the vehicles the dealers sell; and
  - (ii) issuing service contracts administered by the Defendant, Honda.
- (i) the Defendant, Honda, further exercises control over its dealers with respect to:
- (i) financial incentives given to Honda dealer employees;
  - (ii) locations of dealers;
  - (iii) testing and certification of dealership personnel to ensure compliance with the Defendant's, Honda's, policies and procedures; and
  - (iv) customer satisfaction surveys, pursuant to which the Defendant, Honda, allocates the number of Honda cars to each dealer, thereby directly controlling dealership profits;
- (j) Honda dealers sell Honda vehicles on behalf of the Defendant, Honda, pursuant to a "floor plan," and the Defendant, Honda, does not receive payment for its vehicles until the dealerships sell them;
- (k) dealerships bear the Defendant's, Honda's, brand names, use its logos in advertising and on warranty repair orders, post Honda-brand signs for the public

to see, and enjoy a franchise to sell the Defendant, Honda's, products, including the Affected Class Vehicles;

- (l) the Defendant, Honda, requires its dealers to follow its rules and policies in conducting all aspects of dealer business, including the delivery of its warranties described above, and the servicing of defective vehicles such as the Affected Class Vehicles;
- (m) the Defendant, Honda, requires its dealers to post its brand names, logos, and signs at dealer locations, including dealer service departments, and to identify itself and to the public as authorized Honda dealers and servicing outlets for the Defendant's, Honda's, vehicles;
- (n) the Defendant, Honda, requires its dealers to use service and repair forms containing its brand names and logos;
- (o) the Defendant, Honda, requires Honda dealers to perform its warranty diagnoses and repairs, and to do the diagnoses and repairs according to the procedures and policies set forth in writing by it;
- (p) the Defendant, Honda, requires Honda dealers to use parts and tools either provided by it, or approved by it, and to inform the Defendant, Honda, when dealers discover that unauthorized parts have been installed on one of its vehicles;
- (q) the Defendant, Honda, requires dealers' service and repair employees to be trained by it in the methods of repair of Honda-brand vehicles;
- (r) the Defendant, Honda, audit Honda dealerships' sales and service departments and directly contacts the customers of said dealers to determine their level of satisfaction with the sale and repair services provided by the dealers, who are then granted financial incentives or reprimanded depending on the level of satisfaction;
- (s) the Defendant, Honda, requires its dealers to provide it with monthly statements and records pertaining, in part, to dealers' sales and servicing of its vehicles;
- (t) the Defendant, Honda, provides technical service bulletins and messages to its dealers detailing chronic defects present in product lines, and repair procedures to be followed for chronic defects;

- (u) the Defendant, Honda, provides its dealers with specially trained service and repair consultants with whom dealers are required by the Defendant, Honda, to consult when dealers are unable to correct a vehicle defect on their own;
- (v) the Defendant, Honda, requires Honda vehicle owners and/or lessees to go to authorized Honda dealers to obtain servicing under Honda warranties; and
- (w) Honda dealers are required to notify the Defendant, Honda, whenever a Honda vehicle is sold or put into warranty service.

## **Part 2: RELIEF SOUGHT**

1. The Plaintiff, on its own behalf and on behalf of Class Members, claims against the Defendant, Honda, as follows:
  - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the named representative;
  - (b) a declaration that the Defendant, Honda:
    - (i) engaged in unfair practices contrary to sections 4 and 5 of the *Business Practices and Consumer Protection Act*, S.B.C. 2004 ("**BPCPA**"); Sections 5 and 6 of the *Consumer Protection Act*, RSA 2000, c. C-26.3; Sections 6 and 7 of *The Consumer Protection and Business Practices Act*, SS, 2013, c C-30.2; Sections 2 and 3 of *The Business Practices Act*, C.C.S.M. c B120; Sections 14(1) and (2) of the *Consumer Protection Act*, 2002, S.O. 2002, c 30, Sch A, and Section 10 of the *Consumer Protection Act*, SNB 2024, c 1; *Consumer Protection Act*, C.Q.L.R. c. P-40.1, and are consequently liable to the Plaintiff and Class Members for damages; and
    - (ii) breached express warranties as to the Affected Class Vehicles and are consequently liable to the Plaintiff and Class Members for damages.
  - (c) a declaration that it is not in the interests of justice to require that notice be given, where applicable, under the *BPCPA*; *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, S.S., 2013, c C-30.2; *The Business Practices Act*, C.C.S.M. c B120; *Consumer Protection Act*,

2002, S.O. 2002, c 30, Sch A; *Consumer Product Warranty and Liability Act*, S.N.B. 1978, c C-18.1; and *Consumer Protection Act*, SNB 2024, c 1; *Consumer Protection Act*, C.Q.L.R. c. P-40.1 and waiving any such applicable notice provisions;

- (d) an Order for the statutory remedies available under the *BPCPA*; *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, S.S., 2013, c C-30.2; *The Business Practices Act*, C.C.S.M. c B120; *Consumer Protection Act*, 2002, S.O. 2002, c 30, Sch A; *Consumer Product Warranty and Liability Act*, S.N.B. 1978, c C-18.1; *Consumer Protection Act*, SNB 2024, c 1; *Consumer Protection Act*, C.Q.L.R. c. P-40.1, including damages, cancellation and/or rescission of the purchase and/or lease of the Affected Class Vehicles;
- (e) an order directing the Defendants, Honda, to advertise any adverse findings against them pursuant to section 172(3)(c) of the *BPCPA*; Section 19 of the *Consumer Protection Act*, R.S.A. 2000, c. C-26.3; Section 93(1)(f) of *The Consumer Protection and Business Practices Act*, S.S., 2013, c C-30.2; Section 23(2)(f) of *The Business Practices Act*, C.C.S.M. c B120; Section 18(11) of the *Consumer Protection Act*, 2002, S.O. 2002, c 30, Sch A and Section 15 of the *Consumer Product Warranty and Liability Act*, S.N.B. 1978, c C-18.1; *Consumer Protection Act*, SNB 2024, c 1; and *Consumer Protection Act*, C.Q.L.R. c. P-40.1;
- (f) a declaration that the Defendant, Honda, breached sections 36 and/or 52 of the *Competition Act*, R.S.C 1985, c. C-34 ("*Competition Act*") and are consequently liable to the Plaintiff and Class Members for damages;
- (g) an order enjoining the Defendant, Honda, from continuing its unlawful and unfair business practices as alleged herein;
- (h) a declaration that the Defendant, Honda, fraudulently concealed the Paint Defect in the Affected Class Vehicles from the Plaintiff and Class Members;
- (i) injunctive and/or declaratory relief requiring, *inter alia*, the Defendant, Honda, to recall and repair the Affected Class Vehicles and to fully reimburse and make whole all Class Members for all costs and economic losses associated therewith;

- (j) an order pursuant to section 29 of the *Class Proceeding Act*, R.S.B.C. 1996, c.50 ("**CPA**") directing an aggregate assessment of damages;
- (k) costs of notice and administering the plan of distribution of the recovery in this action plus applicable taxes pursuant to section 24 of the *CPA*;
- (l) damages, including actual, compensatory, incidental, statutory and consequential damages;
- (m) special damages;
- (n) punitive damages;
- (o) costs of investigation pursuant to section 36 of the *Competition Act*;
- (p) pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
- (q) such further and other relief as to this Honorable Court may seem just.

### **Part 3: LEGAL BASIS**

#### **E. Jurisdiction**

1. There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and Class Members plead and rely upon the *Court Jurisdiction and Proceedings Transfer Act*, R.S.B.C. 2003, c.28 (the "**CJPTA**") in respect of the Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10 (e)(i), (e)(iii)(A)(B), (f), (g), (h) and (i) of the CJPTA because this proceeding:
  - (e)(i) concerns contractual obligations to a substantial extent, were to be performed in British Columbia;
  - (e)(iii)(A)(B) the contract is for the purchase of property, services or both, for use other than in the course of the purchaser's trade or profession, and resulted from a solicitation of business in British Columbia by or on behalf of the seller;

- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort committed in British Columbia;
- (h) concerns a business carried on in British Columbia; and
- (i) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

**F. Causes of Action**

**i. Violation of *BPCPA* and Parallel Provincial Consumer Protection Legislation**

- 2. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
- 3. The Defendant, Honda, is in British Columbia for the purposes of the *BPCPA*, and in provinces with parallel consumer protection legislation, as described in **Schedule “A”**.
- 4. The Affected Class Vehicles are consumer “goods” within the meaning of section 1(1) of the *BPCPA*, and in provinces with parallel consumer protection legislation, as described in **Schedule “A”**.
- 5. Class Members in British Columbia who purchased and/or leased the Affected Class Vehicles primarily for personal, family or household purposes, and not for resale or for the purposes of carrying on business, are “consumers” within the meaning of section 1(1) of the *BPCPA*, and provinces with parallel consumer protection legislation, as described in **Schedule “A”**.
- 6. The purchase and/or lease of the Affected Class Vehicles by Class Members in British Columbia for personal, family or household purposes, and not for resale or for carrying on business constitutes a “consumer transaction” within the meaning of section 1(1) of the *BPCPA*, and provinces with parallel consumer protection legislation, as described in **Schedule “A”**.
- 7. The Defendant, Honda, is a “supplier” within the meaning of section 1(1) of the *BPCPA*, and in provinces with parallel consumer protection legislation, as described in **Schedule**



“**A**”, as it carried on business in British Columbia and who in the course of business participated in a consumer transaction by: (i) supplying goods to a consumer, or (ii) soliciting, offering, advertising or promoting with respect to a consumer transaction, whether or not privity of contract exists between that person and the consumer, and includes an assignee of, any rights or obligations of the supplier under the *BPCPA*. The Defendant, Honda, is the vehicle manufacturer of the Affected Class Vehicles and distributes, markets and/or supplies such vehicles to consumers including Class Members in British Columbia. At all relevant times, the Defendant, Honda, was a supplier and/or seller of the Affected Class Vehicles as its resellers, authorized dealers and/or distributors were acting as the agents of the Defendant, Honda.

8. By failing to disclose and actively concealing the Paint Defect in the Affected Class Vehicles, the Defendant, Honda, engaged in unfair and/or deceptive trade practices prohibited by sections 4 and 5 of the *BPCPA*, and provinces with parallel consumer protection legislation, as described in **Schedule “A”**. The Defendant, Honda, knew, or ought to have known, that the Paint Defect causes the Affected Class Vehicles’ factory-applied white exterior paint to prematurely and inevitably fail, peel, delaminate, degrade, bubble, and/or flake. The Defendant, Honda, made misleading statements or omissions regarding the Affected Class Vehicles’ design, aesthetic, value, durability and/or paint attributes without disclosing that the Affected Class Vehicles will invariably experience the Paint Defect.
9. As alleged herein, the Defendant, Honda, made representations that the Affected Class Vehicles’ exterior paint is a central and integral attribute of the Affected Class Vehicles that was necessary to complement the Affected Class Vehicles’ value, value-retention, style, luxury and/or durability.
10. In purchasing and/or leasing the Affected Class Vehicles, Class Members were deceived by the Defendant’s, Honda’s, failure to disclose its knowledge of the Paint Defect and the associated damage to the design, aesthetics, value and/or durability attributes, including the paint used on, the Affected Class Vehicles.
11. In particular, the Defendant, Honda, engaged in a pattern of unfair or deceptive acts or practices in failing to disclose to Class Members that the Affected Class Vehicles suffered from the Paint Defect which caused the Affected Class Vehicles’ factory-equipped white exterior paint to prematurely and inevitably fail, peel, delaminate, degrade, bubble, and/or

flake, as follows:

- (a) failing to disclose that the factory-applied white exterior paint of the Affected Class Vehicles was not of a particular standard, quality, or grade;
  - (b) failing to disclose before, during and/or after the time of purchase, lease and/or repair, any and all known material defects or material nonconformity of the Affected Class Vehicles, including the Paint Defect;
  - (c) failing to disclose at the time of purchase and/or lease that the Paint Defect was latent and was likely to prematurely and inevitably cause damage to the Affected Class Vehicles;
  - (d) failing to give adequate or complete warnings and/or notices regarding the Paint Defect with respect to the Affected Class Vehicles to consumers who purchased and/or leased the Affected Class Vehicles, even though the Defendant, Honda, possessed exclusive knowledge of the Paint Defect before and at the time of purchase and/or lease;
  - (e) failing to disclose and/or by actively concealing the fact that the factory-applied exterior white paint of the Affected Class Vehicles suffered from a latent defect, even though the Defendant, Honda, knew, or ought to have known, about the Paint Defect; and
  - (f) representing that the Paint Defect in the Affected Class Vehicles would be covered under the NVLW or the TSB extended warranty.
12. In purchasing and/or leasing the Affected Class Vehicles, Class Members in British Columbia were deceived by the Defendant's, Honda's, failure to disclose its exclusive knowledge that the Paint Defect caused the Affected Class Vehicles' factory-applied white exterior paint to prematurely and inevitably fail, peel, delaminate, degrade, bubble, and/or flake.
13. By failing to disclose and/or actively concealing the Paint Defect, the Defendant, Honda, engaged in unfair or deceptive acts or practices prohibited by sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in **Schedule "A"**.

14. Further, as alleged herein, the Defendant, Honda, made misleading representations and/or omissions concerning the design, aesthetic, value and/or durability attributes of the Affected Class Vehicles suffering from the Paint Defect, by:
  - (a) making advertisements which uniformly omitted any information about the Paint Defect and which misled consumers into believing that the factory-applied white paint would survive the reasonably expected life of the Affected Class Vehicles; and
  - (b) emphasizing and extolling in brochures and press releases that the Affected Class Vehicles suffering from the Paint Defect were of high-value, ability to retain value, stylish, luxurious and/or durable.
15. The Defendant's, Honda's, conduct as alleged herein was, and is, in violation of sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in **Schedule "A"**, in particular, by:
  - (a) representing that the Affected Class Vehicles were defect-free, which they were not;
  - (b) representing that the Affected Class Vehicles were of a particular standard, quality or grade, when they were not;
  - (c) advertising the Affected Class Vehicles with the intent not to sell them as advertised; and
  - (d) representing that the Affected Class Vehicles have been supplied in accordance with a previous representation as to design, aesthetic, value and/or durability attributes, when they were not.
16. In purchasing and/or leasing the Affected Class Vehicles, Class Members in British Columbia were deceived by the Defendant's, Honda's, failure to disclose its exclusive knowledge of the Paint Defect and/or its representations made as to design, aesthetic, value, and/or durability attributes of, including the paint used on, the Affected Class Vehicles in its sales brochure materials, manuals, press releases and/or websites.
17. The Defendant, Honda, intentionally and knowingly misrepresented and omitted material facts regarding its Affected Class Vehicles, specifically regarding the Paint Defect, with an

intent to mislead Class Members.

18. Class Members had no way of knowing of the Defendant's, Honda's, representations were false, misleading and incomplete or knowing the true nature of the Paint Defect in the Affected Class Vehicles. As alleged herein, the Defendant, Honda, engaged in a pattern of deception in the face of a latent defect in the factory-applied white exterior paint of the Affected Class Vehicles. Class Members did not, and could not, unravel the Defendant's, Honda's, deception on their own.
19. The Defendant, Honda, knew, or should have known, that its conduct violated sections 4 and 5 of the *BPCPA*, and parallel provincial consumer protection legislation, as described in **Schedule "A"**.
20. The Defendant, Honda, had a duty to disclose that the factory-applied white exterior paint of the Affected Class Vehicles was fundamentally flawed as described herein because it suffered from a latent defect and Class Members relied on the Defendant's, Honda's, material misrepresentations and omissions regarding the Affected Class Vehicles and the Paint Defect.
21. The facts concealed and omitted by the Defendant, Honda, from Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase an Affected Class Vehicle or pay a lower price. Had Class Members known about the defective nature of the factory-applied white exterior paint of the Affected Class Vehicles, they would not have purchased and/or leased the Affected Class Vehicles or would not have paid the prices they paid.
22. As a result of the Defendant's, Honda's, conduct as alleged herein, Class Members in British Columbia are entitled to a declaration under section 172(1)(a) of the *BPCPA* that an act or practice engaged in by the Defendant, Honda, in respect to the purchase and/or lease of the Affected Class Vehicles contravenes the *BPCPA*, an injunction under section 172(1)(b) of the *BPCPA* to restrain such conduct and/or damages under section 171 of the *BPCPA*, and to such remedies under parallel provincial consumer protection legislation, as described in **Schedule "A"**.
23. Class Members in British Columbia are entitled, to the extent necessary, a waiver of any notice requirements under section 173(1) the *BPCPA*, and parallel provincial consumer

protection legislation, as described in **Schedule "A"**, as a result of the Defendant's, Honda's, failure to disclose and/or actively conceal the Paint Defect from Class Members in British Columbia and its misrepresentations as to design, aesthetic, value and/or durability attributes of the Affected Class Vehicles.

**ii. Breach of Express Warranty**

24. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
25. As an express warrantor, manufacturer, supplier and/or merchant, the Defendant, Honda, had certain obligations to conform the Affected Class Vehicles with the Paint Defect to its express warranties.
26. The Defendant, Honda, marketed, distributed and/or sold the Affected Class Vehicles in Canada, including the Province of British Columbia, as having certain design, aesthetic, value and durability attributes, including its exterior paint, through authorized dealerships and/or independent retail dealers. Such representations formed the basis of the bargain in the Plaintiff and Class Members' decisions to purchase and/or lease the Affected Class Vehicles.
27. When the Plaintiff and Class Members purchased and/or leased the Affected Class Vehicles with the Paint Defect (either as new vehicles or as used vehicles with remaining warranty coverage), the Defendant, Honda, expressly warranted under its warranty that it would cover all parts and labor needed to repair any item on the vehicle when it left the manufacturing plant that is defective in material, workmanship or factory preparation. The Defendant, Honda, provided a NVLW, which provided coverage for three years or 60,000 km on the Honda-branded, or four years or 80,000 km on the Acura-branded Affected Class Vehicles it manufactured.
28. In 2019, the Defendant, Honda, through TSBs offered an extended warranty of seven years or eight years from the date of purchase and/or lease of the Honda-branded or Acura-branded Affected Class Vehicles, respectively.
29. The warranties of the Defendant, Honda, formed a basis of the bargain that was reached when the Plaintiff and Class Members purchased and/or leased the Affected Class Vehicles.

30. The Patent Defect at issue in this litigation was present either in its latent form, at the time, or had manifested shortly after, the Affected Class Vehicles were sold and/or leased to Plaintiff and Class Members.
31. The Defendant, Honda, breached its express warranties (and continues to breach these express warranties) because it did not and has not remedied or corrected the Paint Defect in the Affected Class Vehicles.
32. Pursuant to its express warranties, the Defendant, Honda, was obligated to correct any damage relating to the Paint Defect in the Affected Class Vehicles owned and/or leased by the Plaintiff and Class Members.
33. Although the Defendant, Honda, was obligated to correct the Paint Defect, none of the purported and attempted remedies or fixes to the paint in the Affected Class Vehicles is adequate under the terms of the warranty, as they did not cure the Paint Defect.
34. The Defendant, Honda, has failed and/or refused to conform the Affected Class Vehicles with the Paint Defect to its express warranties. The Defendant's, Honda's, conduct, as averred to herein, has voided any attempt on its part to disclaim liability for its actions.
35. In particular, the Defendant, Honda, breached its express warranties by:
  - (a) knowingly providing the Plaintiff and Class Members with Affected Class Vehicles containing defects that were never disclosed to the Plaintiff and Class Members;
  - (b) failing to adequately and/or properly remedy or fix the Paint Defect in the Affected Class Vehicle at no cost within the NVLW and/or the TSB extended warranty periods;
  - (c) ignoring, delaying responses to and denying warranty claims in bad faith or arbitrarily; and
  - (d) supplying products and materials that failed to conform to its representations.
36. The Plaintiff and Class Members have performed each and every duty required of them under the terms of the warranties, except as may have been excused or prevented by the conduct of the Defendant, Honda, or by operation of law in light of the Defendant, Honda's, conduct as described herein.

37. The Plaintiff and Class Members have given the Defendant, Honda, a reasonable opportunity to cure its breach of express warranties or they were not required to do so because such an opportunity would be unnecessary and futile given that the remedies, repairs and/or fixes offered by the Defendant, Honda, can either not cure the Paint Defect, were inadequate in doing so, or did not resolve the incidental and consequential damages flowing therefrom.
38. The Defendant, Honda, received timely notice regarding the Paint Defect from the Plaintiff and Class Members when they brought their vehicles to their dealerships after experiencing visible paint damage associated with the Paint Defect. Notwithstanding such notice, the Defendant, Honda, has failed and refused to offer an effective or adequate remedy or fix.
39. In its capacity as a manufacturer, supplier and/or warrantor, and by the conduct described herein, any attempt by the Defendant, Honda, to limit its express warranties in a manner that would enforce the warranty period limit would be unconscionable. The Defendant's, Honda's, warranties were adhesive, and did not permit negotiation, or the inclusion of Paint Defect. The Defendant, Honda, possessed superior knowledge of the Paint Defect in the Affected Class Vehicles prior to offering them for sale. The Defendant, Honda, concealed and did not disclose or remedy the Paint Defect prior to sale (or afterward). Any effort to otherwise limit liability for the Paint Defect is null and void.
40. Further, because the Defendant, Honda, has not been able to adequately remedy the Paint Defect, the limitation on remedies included in the warranty fails its essential purpose and is null and void.
41. The Plaintiff and Class Members have suffered damages caused by the Defendant's, Honda's, breach of its express warranties and are entitled to recover damages, including but not limited to, diminution of value.

**iii. Fraudulent Concealment**

42. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
43. The Plaintiff and Class Members' claims arise out of the Defendant's, Honda's fraudulent concealment of the Paint Defect and the peeling, delaminating, degrading, flaking, and/or

bubbling of the Affected Class Vehicles' paint it causes, and its representations as to design, aesthetic, value and/or durability attributes of the Affected Class Vehicles, including the paint used on the Affected Class Vehicles

44. The Defendant, Honda, fraudulently concealed and/or suppressed material facts concerning the quality of the Affected Class Vehicles and the paint used thereon, as well as the existence of the Paint Defect.
45. Despite advertising the Affected Class Vehicles as durable, reliable, and being of high quality and high value, the Defendant, Honda, knew, or ought to have known, when it manufactured, marketed, and sold and/or leased the Affected Class Vehicles that the paint used thereon suffered from a design and/or manufacturing defect that reduced the Affected Class Vehicles' value and subjected Affected Class Vehicles to failing, peeling, delamination, degrading and flaking paint.
46. The Defendant, Honda, failed to disclose these facts to consumers at the time it manufactured, marketed, and sold and/or leased the Affected Class Vehicles and the Defendant, Honda, knowingly and intentionally engaged in this concealment in order to boost sales and revenue, maintain its competitive edge in the automobile market, and obtain windfall profit. Through its active concealment and/or suppression of these material facts, the Defendant, Honda, sought to increase consumer confidence in the Affected Class Vehicles, and to falsely assure purchasers and/or lessors that the Affected Class Vehicles were of sound quality and high value and that the Defendant, Honda, is a reputable manufacturer that stands behind the vehicles it manufactures. The Defendant, Honda, engaged in this behavior to protect its profits, avoid warranty replacements, and avoid recalls that would impair the brand's image, cost it money, and undermine its competitiveness in the automobile industry.
47. The Plaintiff and Class Members were unaware, and could not reasonably discover on their own, that the Defendant's, Honda's, representations were false and misleading, or that it had omitted material facts relating to the Affected Class Vehicles.
48. The Defendant, Honda, had a duty to disclose, rather than to conceal and suppress, the full scope and extent of the Paint Defect because it:



- (a) had exclusive, or far superior, knowledge of the Paint Defect and concealment thereof. The facts regarding the Paint Defect and concealment thereof were known and/or accessible only to the Defendant, Honda;
  - (b) knew that the Plaintiff and Class Members did not know about, or could not reasonably discover on their own, the Paint Defect and concealment thereof; and
  - (c) made representations and assurances about the qualities of the Affected Class Vehicles, including statements about their quality, durability, value, and high resale value, that were misleading, deceptive, and incomplete without the disclosure of the fact that paint used on the Affected Class Vehicles suffered from a systemic design and/or manufacturing defect.
49. These omitted and concealed facts were material because a reasonable consumer would rely on them in deciding to purchase and/or lease the Affected Class Vehicles, and because they substantially reduced the value of the Affected Class Vehicles purchased and/or leased by the Plaintiff and Class Members. Whether the Affected Class Vehicles were defective, of sound quality, value and durable, and whether the Defendant, Honda, would warrant to repair any impending, latent and/or existent defects, would have been an important factor in the Plaintiff and Class Members' decisions to purchase and/or lease the Affected Class Vehicles. The Plaintiff and Class Members trusted the Defendant, Honda, not to sell them vehicles that were defective and significantly overpriced.
50. The Defendant, Honda, intentionally and actively concealed and suppressed these material facts to falsely assure the Plaintiff and Class Members that the Affected Class Vehicles were free from known defects, as represented by the Defendant, Honda, and reasonably expected by the Plaintiff and Class Members.
51. The Plaintiff and Class Members were unaware of these omitted material facts and would have paid less for the Affected Class Vehicles or would not have purchased and/or leased them at all, had they known of the concealed and suppressed facts. The Plaintiff and Class members did not receive the benefit of their bargain due to the Defendants, Honda's, fraudulent concealment. The Plaintiff and Class Members' actions in purchasing the Affected Class Vehicles were justified. The Defendant, Honda, was in exclusive control of the material facts, and such facts were not known or reasonably knowable to the public, the Plaintiff, or Class Members.

52. The Plaintiffs and Class Members relied to their detriment upon the Defendant's, Honda's, reputation, fraudulent misrepresentations, and material omissions regarding the quality, durability, value and high resale value of the Affected Class Vehicles.
53. As a direct and proximate result of the Defendant's, Honda's, deceit and fraudulent concealment, including its intentional concealment and suppression of true facts, the Plaintiff and Class Members suffered loss, expense or damage. They purchased and/or leased Affected Class Vehicles that had a diminished or diminishing value by reason of the Defendant's, Honda's, concealment and suppression of, and failure to disclose, the Paint Defect, among other damages.
54. Accordingly, the Defendant, Honda, is liable to the Plaintiff and Class Members for their damages in an amount to be proven at trial.
55. The Defendant, Honda, has still not made full and adequate disclosure and continues to defraud the Plaintiff and Class Members. The Defendant, Honda, also continues to conceal material information regarding the Paint Defect.
56. The Defendant's, Honda's, acts were done deliberately, with intent to defraud, and in reckless disregard of the Plaintiff and Class Members' rights. The Defendant's, Honda's, conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**iv. Breach of the *Competition Act***

57. The Plaintiff and Class Members hereby incorporate by reference the allegations contained in the preceding paragraphs of this Notice of Civil Claim.
58. By making representations to the public as to design, aesthetic, value and/or durability attributes of, including the paint used on, the Affected Class Vehicles, the Defendant, Honda, breached sections 36 and/or 52 of the *Competition Act*, in that its representations:
  - (a) were made to the public in the form of advertising brochures, manuals, statements and/or other standardized statements as to design, aesthetic, value and/or durability attributes of, including the paint used on, the Affected Class Vehicles;
  - (b) were made to promote the supply or use of a product or for the purpose of promoting its business interests; and

(c) were false and misleading in a material respect.

59. At all relevant times, the Defendant, Honda, was the seller and/or supplier of the Affected Class Vehicles. As such, there existed contractual privity and/or vertical privity of contract between the Plaintiff and Class Members and the Defendant, Honda, as to the Affected Class Vehicles as its resellers, authorized dealers and/or distributors at all material times were acting as the agents of the Defendant, Honda.
60. The Defendant, Honda, engaged in unfair competition and unfair or unlawful business practices through the conduct, statements and omissions described herein and by knowingly and intentionally concealing the Paint Defect in the Affected Class Vehicles from the Plaintiff and Class Members, along with concealing the damage, costs, and monetary damage resulting from the Paint Defect. The Defendant, Honda, should have disclosed this information because it was in a superior position to know the true facts related to the Paint Defect and the Plaintiff and Class Members could not reasonably be expected to learn or discover the true facts related to the Paint Defect.
61. These acts and practices have deceived the Plaintiff and Class Members. In failing to disclose the Paint Defect and concealing and suppressing other material facts from the Plaintiff and Class Members, the Defendant, Honda, breached its duty to disclose these facts, violated the *Competition Act* and caused damage to the Plaintiff and Class Members. The Defendant, Honda's, omissions and concealment pertained to information that was material to the Plaintiff and Class Members, as it would have been to all reasonable consumers.
62. Further, the Plaintiff and Class Members relied upon the Defendant, Honda's, misrepresentations as to design, aesthetic, value and/or durability attributes of, including the paint used on, the Affected Class Vehicles to their detriment in purchasing and/or leasing the Affected Class Vehicles so as to cause loss and/or damage to the Plaintiff and Class Members.
63. The Plaintiff and Class Members have, therefore, suffered damages and are entitled to recover damages pursuant to section 36(1) and/or 52 of the *Competition Act*.

**v. Tolling of the *Limitation Act*, S.B.C. 2012, c. 13**

64. The Plaintiff and Class Members had no way of knowing about the Paint Defect in the

Affected Class Vehicles. The Defendant, Honda, concealed its knowledge of the Paint Defect while continuing to market, sell and/or lease, the Affected Class Vehicles.

65. Within the *Limitation Act*, and to equivalent legislative provisions in the rest of Canada as described in **Schedule “B”**, the Plaintiff and Class Members could not have discovered through the exercise of reasonable diligence that the Defendant, Honda, was concealing the conduct complained of herein and misrepresenting the true qualities and attributes of the Affected Class Vehicles.
66. The Plaintiff and Class Members did not know facts that would have caused a reasonable person to suspect or appreciate that there was a latent defect in the factory-applied exterior white paint of the Affected Class Vehicles.
67. For these reasons, the *Limitation Act*, and to equivalent legislative provisions in the rest of Canada, as described in **Schedule “B”**, has been tolled by operation of the discovery rule with respect to the claims in this proposed class proceeding.
68. Further, due to Defendant’s, Honda’s, knowledge and active concealment of the Paint Defect throughout the relevant time, the *Limitation Act*, and to equivalent legislative provisions in the rest of Canada as described in **Schedule “A”** has been tolled.
69. Instead of publicly disclosing the Paint Defect in the Affected Class Vehicles, the Defendant, Honda, kept the Plaintiff and Class Members in the dark as to the Paint Defect.
70. The Defendant, Honda, was under a continuous duty to disclose to the Plaintiff and Class Members the existence of the Paint Defect in the Affected Class Vehicles.
71. The Defendant, Honda, knowingly, affirmatively and actively concealed or recklessly disregarded the true nature, quality, value, durability and character of the Affected Class Vehicles.
72. As such, the Defendant, Honda, is estopped from relying on the *Limitation Act*, and equivalent legislative provisions in the rest of Canada as described in **Schedule “B”**, in defense of this proposed class proceeding.

Plaintiff's address for service:

Dusevic & Garcha  
Barristers & Solicitors  
210 - 4603 Kingsway  
Burnaby, BC V5H 4M4  
Canada

Fax number address for service (if any):

604-436-3302

E-mail address for service (if any):

ksgarcha@dusevicgarchalaw.ca

Place of trial:

Vancouver, BC, Canada

The address of the registry is:

800 Smithe Street  
Vancouver, BC V6Z 2E1  
Canada

Dated: May 6, 2025

A handwritten signature in blue ink, appearing to read 'K. Garcha', is written over a horizontal line.

Signature of K.S. Garcha  
lawyer for plaintiff

**Schedule “A”**

**Consumer Protection Legislation Across Canada**

Province or Territory	Legislation
Alberta	<p><i>Consumer Protection Act</i>, RSA 2000, c. C-26.3</p> <p>“Goods” - Section 1(1)(e)(i);  “Consumers” - Section 1(1)(b)(i);  “Consumer Transaction” - Section 1(1)(c)(i);  “Supplier” - Section 1(1)(i),(ii) and/or (iii);  “Unfair Practices” - Sections 5 and 6;  Statutory Remedies - Sections 13(1), (2) and 142.1; and  Waiver of Notice - Section 7.1(1)</p>
Saskatchewan	<p><i>The Consumer Protection and Business Practices Act</i>, SS 2014, c. C-30.2</p> <p>“Goods” - Section 2(e);  “Consumer” - Section 2(b);  “Supplier” - Section 2(i);  “Unfair Practices” - Sections 6 and 7; and  Statutory Remedies - Section 93</p>
Manitoba	<p><i>Consumer Protection Act</i>, CCSM c. C200</p> <p>“Goods” - Section 1;  “Consumer” - Section 1;  “Consumer Transaction” - Section 1;  “Supplier” - Section 1;  “Unfair Business Practices” - Sections 2(1) and (3); and  Statutory Remedies - 23(2)(a) and (b)</p>
Ontario	<p><i>Consumer Protection Act</i>, 2002, SO 2002, c. 30, Sch. A</p> <p>“Goods” - Section 1;  “Consumer” - Section 1;  “Supplier” - Section 1;  “Unfair Practices” - Sections 14(1) and (2);  Statutory Remedies - Sections 18(1) and (2); and  Waiver of Notice - Sections 18(3) and (15)</p>

Province or Territory	Legislation
New Brunswick	<p><i>Consumer Product Warranty and Liability Act</i>, SNB 1978, c. C-18.1</p> <p>“Consumer Product” - Section 1(1);  “Buyer” - Section 1(1);  “Contract for the sale or supply of a consumer product” - Section 1(1); and  “Seller” - Section 1(1);</p> <p><i>Consumer Protection Act</i>, SNB 2024, c1</p> <p>“Consumer” – Section 1;  “Consumer Agreement” – Section 1;  “Consumer Transaction” – Section 1; and  “Unfair Practices” – Part 2, Section 10</p>
Québec	<p><i>Consumer Protection Act</i>, CQLR c. P-40.1</p> <p>“Goods” - Article 1(d);  “Consumer” - Article 1(e);  “Manufacturer” - Article 1(g); and  “Merchant” - Article 1</p>

**Schedule “B”**

**Limitation Act Legislation Across Canada**

<b>Province or Territory</b>	<b>Legislation</b>
Alberta	<i>Limitations Act</i> , RSA 2000, c. L-12
Saskatchewan	<i>The Limitations Act</i> , SS 2004, c. L-16.1
Manitoba	<i>The Limitation of Actions Act</i> , CCSM c. L150
Ontario	<i>Limitations Act</i> , 2002, SO 2002, c. 24, Sch. B
Newfoundland and Labrador	<i>Limitations Act</i> , SNL 1995, c. L-16.1
Nova Scotia	<i>Limitation of Actions Act</i> , SNS 2014, c. 35
New Brunswick	<i>Limitation of Actions Act</i> , SNB 2009, c. L-8.5
Prince Edward Island	<i>Statute of Limitations</i> , RSPEI 1988, c. S-7
Yukon	<i>Limitation of Actions Act</i> , RSY 2002, c. 139
Northwest Territories	<i>Limitation of Actions Act</i> , RSNWT 1988, c. L-8
Nunavut	<i>Limitation of Actions Act</i> , RSNWT (Nu) 1988, c. L-8
Québec	<i>Civil Code of Québec</i> , CQLR, c. C-1991, art. 2908



## ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA

There is a real and substantial connection between British Columbia and the facts alleged in this proceeding. The Plaintiff and the Class Members plead and rely upon the *Court Jurisdiction and Proceedings Transfer Act* R.S.B.C. 2003 c.28 (the "**CJPTA**") in respect of these Defendants. Without limiting the foregoing, a real and substantial connection between British Columbia and the facts alleged in this proceeding exists pursuant to sections 10(e)(i), (iii)(a) & (b), (f), (g), (h) and (l) of the *CJPTA* because this proceeding:

- (e)(i) concerns contractual obligations to a substantial extent, were to be performed in British Columbia;
- (e) (iii)(a) & (b) the contract is for the purchase of property, services or both, for use other than in the course of the purchaser's trade or profession, and resulted from a solicitation of business in British Columbia by or on behalf of the seller;
- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort committed in British Columbia;
- (h) concerns a business carried on in British Columbia;
- (i) is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Appendix

*[The following information is provided for data collection purposes only and is of no legal effect.]*

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

The within proposed automotive defect multi-jurisdictional class proceeding involves certain model and model year Honda vehicles painted with a factory-applied white exterior paint, engineered, designed, developed, manufactured, assembled, tested, marketed, distributed, supplied, leased and/or sold by the Defendants, HONDA MOTOR COMPANY, LTD., HONDA CANADA INC., and HONDA DEVELOPMENT & MANUFACTURING OF AMERICA, LLC, in Canada, including the Province of British Columbia. In particular, the Affected Class Vehicles all suffer from a paint defect that causes the vehicles' exterior paint to prematurely and inevitably fail, peel, delaminate, degrade, bubble, and/or flake.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- ☐ motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- ☒ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

**Part 4:**

1. *Class Proceedings Act*, R.S.B.C. 1996, c. 50
2. *Court Jurisdiction and Proceedings Transfer Act*, R.S.B.C. 2003 c. 28

3. *Business Practices and Consumer Protection Act*, S.B.C. 2004; *Consumer Protection Act*, RSA 2000, c. C-26.3; *The Consumer Protection and Business Practices Act*, SS, 2014, c C-30.2; *The Business Practices Act*, CCSM c B120; *Consumer Protection Act*, 2002, SO 2002, c 30, Sch A; *Consumer Product Warranty and Liability Act*, and SNB 1978, c C-18.1

4. *Motor Vehicle Safety Act*, R.S.C. 1993, c.16

5. *Court Order Interest Act*, R.S.B.C., c. 79

6. *Competition Act*, R.S.C 1985, c. C-34

7. *Limitation Act*, S.B.C. 2012, c.13; *Limitations Act*, RSA 2000, c. L-12; *The Limitations Act*, SS 2004, c. L-16.1; *The Limitations Act*, SS 2004, c. L-16.1; *The Limitation of Actions Act*, CCSM c. L150; *Limitations Act*, 2002, SO 2002, c. 24, Sch. B; *Limitations Act*, SNL 1995, c. L-16.1; *Limitation of Actions Act*, SNS 2014, c. 35; *Limitation of Actions Act*, SNB 2009, c. L-8.5; *Statute of Limitations*, RSPEI 1988, c. S-7; *Limitation of Actions Act*, RSY 2002, c. 139; *Limitation of Actions Act*, RSNWT 1988, c. L-8; *Limitation of Actions Act*, RSNWT (Nu) 1988, c. L-8; and *Civil Code of Quebec*, CQLR, c. C-1991, art. 2908